

## **Remarks**

Claims 1-16 are pending in the application of which claims 1-16 are rejected by the Examiner. By this paper, Applicant cancels claims 1 and 11, amends claims 2-16, and adds new claims 17-20.

### ***Claim Objections***

The Examiner objected to claim 13 due to an informality. Applicant has amended claim 13 to correct the informality and claim 13 is now believed to be in condition for allowance.

### ***Claim Rejections Under 35 U.S.C. § 112***

The Examiner has rejected claims 1-16 under 35 U.S.C. § 112, second paragraph as being indefinite. Claims 1 and 11 are canceled, claims 2-10 and 12-16 are amended to depend from new claim 17.

The Examiner stated that "it is not clear whether Applicant is intending to invoke the provisions of 35 U.S.C. § 112 paragraph 6" with reference to the "back pressure means" of now canceled claim 1. Claims 5 and 6 are amended to claim a back pressure device. Claims 12-16 have been amended to depend from claim 5 and now require a "back pressure device".

### ***Claim Rejections Under 35 U.S.C. § 102***

The Examiner has rejected claims 1 and 12-16 under 35 U.S.C. § 102(b) as being anticipated by Breakspear (US 3,274,705).

Claim 1 is canceled.

Claims 12-16 are amended to depend from new claim 17. New claim 17 requires "a patient mask having a seal for contacting the face of a person", "the mask having an interior portion and an aperture between the interior portion and the surroundings", and "an adaptor sized

to fit within an aperture of the mask". Breakspear does not teach these elements and therefore claim 17 is not anticipated by Breakspear. Claims 12-16 depend from claim 17 and are therefore also not anticipated by Breakspear for at least the reasons stated with respect to claim 17.

The Examiner also stated that with respect to claims 12-16 "the claims limit an element which is not clearly recited as being part of the claimed invention". Claims 12-16 have been amended to depend from amended claim 5. Amended claim 5 now requires "an artificial lung as the back pressure device" as an element.

### ***Claim Rejections Under 35 U.S.C. § 103***

The Examiner has rejected claims 2-6 and 10-11 under 35 U.S.C. § 103(a) as being unpatentable over Breakspear (US 3,274,705) in view of Bowden (US 6,296,490). Amended claim 2 depends from new claim 17, which requires "a patient mask having a seal for contacting the face of a person", "an adaptor sized to fit within the aperture of the mask", "a first passage for providing fluid communication between the mask interior and a source of air" and "a second passage for providing fluid communication between the source of air and a back pressure device". Breakspear does not teach, suggest or provide all of the elements of new claim 17. Bowden teaches a single passageway 8 between the bag 2, the mask 4 and the back pressure device 11. Therefore Bowden does not teach, suggest or provide the elements of claim 17. Claim 17 is not obvious over the combination of Breakspear and Bowden.

Amended claim 2 depends from claim 17 and requires "a third passage for providing fluid communication between the person and the surroundings". The Examiner states that Breakspear teaches two passageways and that Bowden discloses "the third passage providing communication to the surroundings. . . passage 9". Bowden teaches a manikin with passage 9 designed to mimic air going into the stomach of the manikin during artificial respiration. The passage 9 of Bowden does not provide fluid communication between the person and the surroundings as required in claim 2. Therefore Breakspear and Bowden do not teach, suggest or provide all of the elements of claim 2 and claim 2 is nonobvious over Breakspear and Bowden for at least these reasons and those above stated with respect to new claim 17.

Claims 3-6 and 10-11 depend from new claim 17 and are nonobvious over Breakspear in view of Bowden for at least the reasons stated above with respect to new claim 17.

Claims 7-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Breakspear. Claims 7-9 depend from new claim 17, which requires "a patient mask having a seal for contacting the face of a person" and "wherein air flowing from the source of air through the first passage into the mask interior contacts the seal and is used to determine if the masked is sealed to the face of the person". Breakspear teaches "a mock patient. . . with the lower mouthpiece 8 in his mouth" and does not teach a mask having a "first passage for providing fluid communication between the mask interior and a source of air" as required in new claim 17. Therefore Breakspear does not teach, suggest or provide all of the elements required by new claim 17 and claim 17 is nonobvious. Claims 7-9 depend from new claim 17 and are therefore nonobvious over Breakspear for at least the reasons stated above.

### *New Claims*

New claims 17-20 have been added and are believed to be not anticipated by and nonobvious over Breakspear and Bowden.

***Conclusion***

Applicant believes the application is now in condition for allowance, for which allowance is hereby requested.

Please charge the amount of \$130.00 is enclosed to cover the Petition fee and any additional fees or credit any overpayments as a result of the filing of this paper to our Deposit Account No. 02-3978.

Respectfully submitted,

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